

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION
Prosecution Staff Proposed Draft
CLEANUP AND ABATEMENT ORDER NO. R5-2008-XXXX
FOR
FRANK AND SHARI GUINTA
AND
JAMES AND MARILYN RAMSEY
FOR
2072 WEST YOSEMITE AVENUE
SAN JOAQUIN COUNTY

This Order is issued to Frank and Shari Guinta, as former husband and wife, and James and Marilyn Ramsey, as husband and wife, hereafter referred to as Dischargers, based on provisions of Water Code section 13304 and Health and Safety Code section 25296.10, which authorize the California Regional Water Quality Control Board, Central Valley Region (hereafter Water Board) to issue a Cleanup and Abatement Order (Order), and Water Code section 13267, which authorizes the Water Board to require preparation and submittal of technical and monitoring reports.

The Water Board finds, with respect to the Dischargers' acts or failure to act, the following:

PROPERTY OWNERSHIP AND OPERATIONS

1. Mr. William Ramsey owned the real property, which included a full service fueling station, mini-market, and auto repair shop, at 2072 West Yosemite Avenue in Manteca, San Joaquin County (see Figure 1) from 1977 until his death in 1987, when the property was transferred to his widow Leora Ramsey. At date of transfer the property continued to include the full service fueling station, mini-market, and auto repair shop.
2. According to San Joaquin County records, in 1988, Leora Ramsey transferred the real property at 2072 West Yosemite Avenue to her son and his wife, James and Marilyn Ramsey, who owned the full service fueling station, mini-market, and auto repair shop at the site from 1988 to 1996. The first recorded leak from the gasoline UST dispensing system occurred in 1992. The first soil and groundwater investigation, which confirmed a release had occurred from the dispensers and the USTs, was conducted in 1995. James and Marilyn Ramsey are subject to this Order because they owned the property at the time the UST system leaked and caused or permitted waste to be discharged to waters of the state where it has created a condition of pollution and nuisance, and had control of access to the property for the purpose of investigation, remediation, and monitoring of the pollution.
3. According to San Joaquin County records, Frank Guinta became the owner of the property in May 1996. Shari Guinta, through marriage to Frank Guinta, also became an owner of the property. According to San Joaquin County records, Shari Guinta quitclaimed her share of the property to Frank Guinta in 1998, and Frank Guinta is the current owner of the property. From 1997 to June 1998, when the UST system was removed and replaced with a new UST system, additional soil and groundwater investigations further delineated the extent of the release. Frank and Shari Guinta

are subject to this Order because they owned the UST system that leaked, and Frank Guinta is also subject to this Order because he is the current owner of the property and caused or permitted waste to be discharged to waters of the state and has the ability to control access where it has created a condition of pollution and nuisance.

4. From 1983 to 1987, Frank Guinta leased the fueling station and mini-market from owner William Ramsey, and subsequently from owners Leora, James, and Marilyn Ramsey from 1987 until 1996. Frank Guinta continued to operate the UST system after becoming an owner of the station in 1996. The old UST system remained in operation until removal and replacement with a new UST system in June 1998. In 2000, Frank Guinta transferred operations of the fueling station and mini-market, including the UST system, to In Sop Kim and Myoung O Kim (Kims). Frank Guinta is subject to this Order because he operated the UST system that caused or permitted waste to be discharged to waters of the state where it has created a condition of pollution and nuisance.
5. From 2000 to present, the fueling station and mini-market have been leased to the Kims under a purchase lease contract. The Kims now operate the replacement UST system on the property and are not subject to this Order, because analysis of free phase product found on-site is representative of a gasoline release that occurred prior to their becoming operators in 2000, and is not representative of a subsequent diesel dispenser leak that was investigated and resolved.
6. From 1995 to the present, the auto repair shop has been leased to Mr. Dave Garza, who operates All City Auto. Mr. Garza is not subject to the Order because there is no evidence of a release resulting from activities at the auto repair shop.

BACKGROUND

7. On 2 May 1992, San Joaquin County Environmental Health Department (SJCEHD) submitted an Unauthorized Release Report for a gasoline leak detected at the Site fuel dispensers during an inspection. Subsequently SJCEHD discovered inconsistencies in the USTs monthly reconciliation report of fuel supplies delivered versus sales of petroleum products, a potential indicator of a leaking UST system. SJCEHD directed the Dischargers to investigate the release to soil and groundwater.
8. In 1994, one waste oil and three motor oil USTs were removed from the property (see Figure 2), under the direction of the SJCEHD. Results of soil samples from the motor oil USTs revealed soil contamination with Total Petroleum Hydrocarbons as motor oil (TPH-mo), up to 150 milligrams per kilogram (mg/kg) and Total Petroleum Hydrocarbons as diesel (TPH-d) up to 29 mg/kg.

9. In February 1995, prior to the property transfer from the Ramseys to the Guintas and at the request of a lending institution, a soil and groundwater investigation of the UST system identified TPH-d, Total Petroleum Hydrocarbons as gasoline (TPH-g), benzene, toluene, ethylbenzene, and xylenes in soil and groundwater near the dispensers and the USTs. The maximum soil concentrations were TPH-d (18,000 mg/kg), TPH-g (1,400 mg/kg), benzene (2.5 mg/kg), toluene (4.4 mg/kg), ethylbenzene (2.4 mg/kg), and xylenes (8.3 mg/kg). The maximum grab groundwater concentrations were TPH-mo (110 micrograms per Liter, or ug/L), TPH-d (2,500 ug/L), TPH-g (13,500 ug/L), benzene (83 ug/L), toluene (840 ug/L), ethylbenzene (230 ug/L), and xylenes (1,900 ug/L). Methyl tert-butyl ether (MtBE) was not analyzed for during this event.
10. The *Preliminary Investigation and Evaluation Report*, dated February 1995, documented the unauthorized release and the consultant recommended replacement of the UST system, but the UST system remained in operation until removal in June 1998.
11. In April 1997, a soil and groundwater investigation identified the following maximum soil concentrations TPH-d (1 mg/kg), TPH-g (880 mg/kg), MtBE (9.2 mg/kg), benzene (0.89 mg/kg), toluene (15 mg/kg), ethylbenzene (10 mg/kg), and xylenes (63 mg/kg). Maximum grab groundwater concentrations were TPH-d (760 ug/L), TPH-g (130,000 ug/L), MtBE (21,000 ug/L), benzene (5,300 ug/L), toluene (28,000 ug/L), ethylbenzene (3,500 ug/L), and xylenes (21,000 ug/L).
12. In May 1998, a soil investigation near the UST system identified additional constituents naphthalene (0.110 mg/kg) and the chlorinated solvent tetrachloroethylene (PCE, 0.024 mg/kg).
13. In June 1998, the Site's six 10,000-gallon USTs and dispensers were removed (see Figure 2) and replaced with a new UST system. Evidence of leakage (100% corrosion through tanks metal, soil staining under the tanks, and strong odors in the excavation) was photographed and documented by the SJCEHD during the UST system removal. Soil and groundwater sampling was conducted during the UST system removal. Maximum tank pit and dispenser island confirmation soil concentrations were TPH-d (19,000 mg/kg), TPH-g (9,600 mg/kg), MtBE (30 mg/kg), benzene (63 mg/kg), toluene (530 mg/kg), ethylbenzene (200 mg/kg), xylenes (1,400 mg/kg), tertiary butyl alcohol (TBA, 5.4 mg/kg) and naphthalene (6.6 mg/kg). Maximum tank pit grab groundwater samples were TPH-d (97,000 ug/L), TPH-g (24,000 ug/L), MtBE (16,000 ug/L), benzene (490 ug/L), toluene (2,700 ug/L), ethylbenzene (780 ug/L), xylenes (5,000 ug/L), TBA (21,000 ug/L), and naphthalene (87 ug/L).
14. Between May 1999 and September 2000, the Dischargers installed 20 monitoring wells (MW-1 through MW-20) and five piezometers (P-1 through P-5) (see Figure 3).

Monthly hand bailing removed free product from two monitoring wells (MW-5 and MW-6) and one piezometer (P-4). Off-site monitoring wells are currently located less than 200 feet from the Site.

15. The maximum concentrations of pollutants detected in groundwater, from 1998 to 2002, along with each pollutants corresponding water quality limit, are as follows:

Constituent	Maximum Concentration (µg/L)	Numerical Water Quality Limits (µg/L)
Total Petroleum Hydrocarbons as gasoline	280,000	5 ¹
Total Petroleum Hydrocarbons as diesel	97,000	100 ¹
Benzene	1,500	0.15 ²
Ethylbenzene	4,500	3.2 ³
Toluene	18,000	42 ¹
Xylenes	25,000	17 ¹
Methyl Tertiary Butyl Ether (MtBE)	16,000	5 ¹
Naphthalene	87	21 ¹
Tertiary Butyl Alcohol (TBA)	21,000	12 ⁴
1,2 Dichloroethane (1,2-DCA)	1.1	0.4 ²
Tetrachloroethylene (PCE)	26	0.06 ²
1,2 Dichloropropane (1,2-DCP) ⁵	4.5	0.5 ²

1 - Taste & Odor Threshold 2 – California Public Health Goal 3 - California Cancer Potency Factor
4 – California State Action Levels 5- a component used in the manufacture of unleaded gasoline, found in monitoring wells, the onsite supply well, and domestic wells

16. In August 2000, one groundwater extraction well and one air sparge well were installed to conduct a pilot study to determine the feasibility of using these technologies at the Site. In September 2000, one additional extraction well was installed, three piezometers were converted to extraction wells, and a groundwater pump and treat system began operating at the Site as an interim remedial action.
17. In a letter dated 6 September 2001, the SJCEHD approved a remedial action plan consisting of soil vapor extraction/air sparging (SVE/AS), additional extraction wells for the pump and treat system, and domestic wellhead treatment. In January 2002, the SVE/AS system was installed and began operating.

18. Between August and September of 2000, 12 domestic wells were subsequently discovered as polluted by MtBE and/or 1,2-DCA, and disconnected from the residences (see Figure 3). In addition to the 12 domestic wells, one irrigation well was discovered polluted by MtBE. At the direction of the SJCEHD with Regional Board staff concurrence, temporary bulk water supply tanks were installed at each home and water delivery was initiated by Mr. Guinta.
19. On 16 August 2000, SJCEHD staff met with City of Manteca Public Works (City of Manteca) to discuss installation of a public water supply and sanitary sewer line for the City of Manteca and unincorporated area residents affected by MtBE and 1,2-DCA plumes. Connections to the City of Manteca utilities were estimated to cost \$2,000,000 and required two years for annexation of the unincorporated area and to construct the utilities. The decision was made to install individual treatment systems on each polluted well at an estimated annual maintenance and sampling cost of \$75,000 for all of the domestic wellhead treatment systems.
20. The March 2001 *Report of Further Delineation of Contamination North of the Site* provided the results of an offsite Cone Penetrometer Testing (CPT) investigation that identified benzene, MtBE, and 1,2-DCA in groundwater north of Yosemite Avenue. Isoconcentration contour maps created from data revealed groundwater plumes of benzene, MtBE and 1,2-DCA up to 1,350 feet north and downgradient from the Site. The CPT report recommended the installation of offsite groundwater monitoring wells to characterize the vertical and lateral extent of the groundwater plumes, and a feasibility study for additional groundwater remediation.
21. By January 2002, of the 13 wells found impacted, 11 domestic wellhead treatment systems were installed at residences with polluted supply wells (see Figure 3). Prior to this date, one property owner refused treatment, and one polluted domestic well was properly abandoned.
22. From 1992 to 2003, SJCEHD, as the lead regulatory agency, worked with Mr. Guinta. Work progressed until 1 January 2003, at which time the SVE/AS system was turned off. Water Board staff were informed that the shutdown was due to insufficient State Underground Storage Tank Cleanup Funds (<\$50,000).
23. The Site was referred by SJCEHD to the Water Board for non-compliance with the 25 February 2003 SJCEHD written directive to restart the remedial systems.
24. During a meeting to discuss a draft Cleanup and Abatement Order (CAO) at the Water Board office on 9 April 2003, Mr. Guinta's representatives agreed to restart the SVE/AS system. The SVE/AS system was restarted in May of 2003 and operated until December 2003, when Water Board staff approved cessation of SVE/AS operations. From 2002 to 2003, the SVE system removed approximately 528 gallons of TPHg.

25. The Executive Officer issued Cleanup and Abatement Order No. R5-2003-0173 (CAO R5-2003-0173) on 18 August 2003.
26. Work under CAO R5-2003-0173 progressed until January 2004, when Mr. Guinta claimed an inability to obtain loans to investigate the groundwater plume. Mr. Guinta continued to monitor all wells and maintain the domestic wells treatment systems. Water Board staff met and worked with Mr. Guinta to become compliant with CAO R5-2003-0173 until January 2005, when Mr. Guinta stated in writing that he could not fund the remaining tasks.
27. Water Board staff continued to monitor the domestic wells and maintain the domestic wells treatment systems using State Emergency funds throughout 2005 and 2006.
28. The Executive Officer issued an Administrative Civil Liability (ACL) Complaint to the Dischargers in December 2005. The Water Board held a hearing on 27 October 2006 and did not adopt an ACL Order, but directed Water Board staff to continue working with the Dischargers to bring them into compliance with CAO R5-2003-0173. Water Board staff met with the Dischargers on 27 November 2006 to discuss compliance with CAO R5-2003-0173. The Dischargers replied in a letter dated 12 December 2006 that they could not comply with CAO R5-2003-0173 due to the cost of the investigation and cleanup.
29. During the 27 October 2006 Water Board ACL Hearing, the Dischargers stated that an additional off-site source for the pollution exists. Water Board staff responded that the results of the 2001 offsite CPT investigation, the lack of SJCEHD records for another station, and the file did not support this statement. Subsequently, Water Board staff interviewed several long-time residents of the neighborhood, who did not indicate the presence of another gas station between the Site and the polluted wells. The City of Manteca Fire Department staff indicated, although there were no City records, that a Standard Oil station existed on the northwest corner of Yosemite Avenue and Airport Way until demolished the middle 1960's, which predates the use of MtBE in California. Chevron did not have records for the Standard Oil station. Investigative and remedial actions to date have indicated that the Site is the source of the identified pollution.
30. In March 2007, the State resumed quarterly groundwater monitoring of the onsite wells, in conjunction with the ongoing monitoring of the domestic wells and maintenance of the domestic wells treatment systems. The State's contractor (currently URS Corporation) utilizing the State Water Resources Control Board (State Board) Underground Storage Tanks Cleanup Fund, under the Recalcitrant section of the Emergency Abandoned and Recalcitrant (EAR) Account, now conducts work not conducted by the Dischargers. Water Board staff approve scopes

of work and work plans, review and comment on the reports and contractor invoices, and conduct oversight of the technical work.

31. This Order is necessary because water quality, human health, and safety are affected or threatened; private wellhead treatment and remedial systems need to be operated and maintained without interruption; and the groundwater investigation and cleanup are not complete.

AUTHORITY – LEGAL REQUIREMENTS

32. Section 13304(a) of the California Water Code provides that:
“Any person who has discharged or discharges waste into waters of the state in violation of any waste discharge requirements or other order or prohibition issued by a regional board or the state board, or who has caused or permitted, causes or permits, or threatens to cause or permit any waste to be discharged or deposited where it is, or probably will be, discharged into the waters of the state and creates, or threatens to create, a condition of pollution or nuisance, shall upon order of the regional board clean up the waste or abate the effects of the waste, or, in the case of threatened pollution or nuisance, take other necessary remedial action, including but not limited to, overseeing cleanup and abatement efforts. A cleanup and abatement order issued by the state board or a regional board may require the provision of, or payment for, uninterrupted replacement water service, which may include wellhead treatment, to each affected public water supplier or private well owner. Upon failure of any person to comply with the cleanup or abatement order, the Attorney General, at the request of the regional board, shall petition the superior court for that county for the issuance of an injunction requiring the person to comply with the order. In the suit, the court shall have jurisdiction to grant a prohibitory or mandatory injunction, either preliminary or permanent, as the facts may warrant.”
33. Section 13304(f) of the California Water Code provides that:
“Replacement water provided pursuant to subdivision (a) shall meet all applicable federal, state and local drinking water standards and shall have comparable quality to that pumped by the public water system or private well owner prior to the discharge of waste”
34. Section 25296.10(a) of the Health and Safety Code provides that:
“Each owner, operator, or other responsible party shall take corrective action in response to an unauthorized release in compliance with this chapter and the regulations adopted pursuant to Section 25299.3.”

35. Section 13267(b)(1) of the California Water Code provides that:

"In conducting an investigation specified in subdivision (a), the regional board may require that any person who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge waste within its region, or any citizen or domiciliary, or political agency or entity of this state who has discharged, discharges, or is suspected of having discharged or discharging, or who proposes to discharge, waste outside of its region that could affect the quality of waters within its region shall furnish, under penalty of perjury, technical or monitoring program reports which the regional board requires. The burden, including costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be obtained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

36. Section 13304(c)(1) of the California Water Code provides that:

"If waste is cleaned up or the effects of the waste are abated, or, in the case of threatened pollution or nuisance, other necessary remedial action is taken by any government agency, the person or persons who discharged the waste, discharges the waste, or threatened to cause or permit the discharge of the waste within the meaning of subdivision (a), are liable to that government agency to the extent of the reasonable costs actually incurred in cleaning up the waste, abating the effects of the waste, supervising cleanup or abatement activities, or taking other remedial actions. . ."

37. The State Water Resources Control Board (hereafter State Board) has adopted Resolution No. 92-49, the *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304*. This Policy sets forth the policies and procedures to be used during an investigation or cleanup of a polluted site and requires that cleanup levels be consistent with State Board Resolution 68-16, the *Statement of Policy With Respect to Maintaining High Quality of Waters in California*. Resolution 92-49 and the Basin Plan establish the cleanup levels to be achieved. Resolution 92-49 requires the waste to be cleaned up to background, or if that is not reasonable, to an alternative level that is the most stringent level that is economically and technologically feasible in accordance with Title 23, California Code of Regulations (CCR) Section 2550.4. Any alternative cleanup level to background must (1) be consistent with the maximum benefit to the people of the state; (2) not unreasonably affect present and anticipated beneficial use of such water; and (3) not result in water quality less than that prescribed in the Basin Plan and applicable Water Quality Control Plans and Policies of the State Board.

38. Chapter IV of the Basin Plan contains the *Policy for Investigation and Cleanup of Contaminated Sites*, which describes the Water Board's policy for managing contaminated sites. This policy is based on Water Code Sections 13000 and 13304, the Title 27, Division 2, Subdivision 1 regulations, and State Board Resolution Nos. 68-16 and 92-49. The policy includes site investigation, source removal or containment, information required to be submitted for consideration in establishing cleanup levels, and the bases for establishment of soil and groundwater cleanup levels.
39. The State Board adopted the *Water Quality Enforcement Policy*, which states in part: "*At a minimum, cleanup levels must be sufficiently stringent to fully support beneficial uses, unless the RWQCB allows a containment zone. In the interim, and if restoration of background water quality cannot be achieved, the CAO should require the discharger(s) to abate the effects of the discharge. Abatement activities may include the provision of alternate water supplies.*" (*Enforcement Policy*, p. 19.)
40. The Water Board's *Water Quality Control Plan for the Sacramento River and San Joaquin River Basins, 4th Edition* (hereafter Basin Plan) designates beneficial uses of the waters of the State, establishes water quality objectives (WQOs) to protect these uses, and establishes implementation policies to implement WQOs. The beneficial uses of the groundwater beneath the site are domestic, municipal, industrial, and agricultural supply.
41. The wastes detected at the site are not naturally occurring, and some are known human carcinogens (Benzene, Ethylbenzene, TBA, PCE and 1, 2-DCA) or suspected carcinogens (MtBE). Pollution of groundwater with these wastes impairs or threatens to impair the beneficial uses of the groundwater.
42. WQOs listed in the Basin Plan include numeric WQOs, e.g., state drinking water maximum contaminant levels (MCLs), and narrative WQOs, including the narrative toxicity objective and the narrative tastes and odors objective for surface and groundwater. Chapter IV of the Basin Plan contains the *Policy for Application of Water Quality Objectives*, which provides that "[w]here compliance with narrative objectives is required (i.e., where the objectives are applicable to protect specified beneficial uses), the Water Board will, on a case-by-case basis, adopt numerical limitations in orders which will implement the narrative objectives." The numerical limits for the constituents of concern listed in the following table implement the Basin Plan WQOs.

Constituent	Limits	WQO	Reference
Total Petroleum Hydrocarbons as Gasoline	5 ug/l	Taste and Odor	McKee & Wolf, <i>Water Quality Criteria</i> , SWRCB, p. 230
Total Petroleum Hydrocarbons as Diesel	100 ug/l	Taste and Odor	U.S. EPA Suggested No-Adverse Response Level, 1980
Benzene	0.15 ug/l	Toxicity	California Public Health Goal (OEHHA)
Toluene	42 ug/l	Taste and Odor	Federal Register, Vol. 54, No. 97
Ethylbenzene	3.2 ug/l	Toxicity	CalEPA Cancer Potency Factor
Xylenes	17 ug/l	Taste and Odor	Federal Register, Vol. 54, No. 97
MTBE	5 ug/l	Taste and Odor	Federal Register, Vol. 54, No. 97
Naphthalene	21 ug/l	Taste and Odor	Federal Register, Vol. 54, No. 97
TBA	12 ug/l	Primary MCL	Federal Register, Vol. 54, No. 97
1,2-DCA	0.4 ug/l	Toxicity	California Public Health Goal (OEHHA)
PCE	0.06 ug/l	Toxicity	California Public Health Goal (OEHHA)
1,2-DCP	0.5 ug/L	Toxicity	California Public Health Goal (OEHHA)

43. The constituents listed in Findings No. 8, 9, 11, 12, 13, and 15 are wastes as defined in California Water Code Section 13050(d). The groundwater exceeds the WQOs for the constituents listed in Finding No. 42. The exceeding of applicable WQOs in the Basin Plan constitutes pollution as defined in California Water Code Section 13050(l)(1).

DISCHARGER LIABILITY

44. As described in Findings 2 through 4 and 36, the Dischargers are subject to an order pursuant to Water Code section 13304 and Health and Safety Code section 25296.10 because the Dischargers have caused or permitted waste to be discharged or deposited where it has discharged to waters of the state and has created, and continues to threaten to create, a condition of pollution or nuisance. The condition of pollution is a priority violation and issuance or adoption of a cleanup or abatement order pursuant to Water Code Section 13304 and Health and Safety Code Section 25296.10 is appropriate and consistent with policies of the Water Board.
45. This Order requires investigation and cleanup of the site in compliance with the Water Code, the applicable Basin Plan, Resolution 92-49, and other applicable plans, policies, and regulations.

46. As described in Findings 2 through 4 and 35, the Dischargers are subject to an order pursuant to Water Code section 13267 to submit technical reports because existing data and information about the site indicate that waste has been discharged, is discharging, or is suspected of discharging, at the property, which is or was owned and/or operated by the Dischargers named in this Order. The technical reports required by this Order are necessary to assure compliance with Section 13304 of the California Water Code and Health and Safety Code Section 25296.10, including to adequately investigate and cleanup the site to protect the beneficial uses of waters of the state, to protect against nuisance, and to protect human health and the environment.
47. If the Dischargers fail to comply with this Order, the Executive Officer may request the Attorney General to petition the superior court for the issuance of an injunction.
48. If the Dischargers violate this Order, the Dischargers may be liable civilly in a monetary amount provided by the Water Code and/or the Health and Safety Code.
49. The issuance of this Order is an enforcement action taken by a regulatory agency is in compliance with the provisions of the California Environmental Quality Act (Public Resources Code, Section 21000, et seq.), pursuant to Title 14 CCR Section 15321(a)(2). A Negative Declaration was prepared indicating that no significant impacts would occur based upon the actions required by this Order. The Negative Declaration was subject to the formal comment and public participation requirements and all comments were considered and resolved. The implementation of this Order is also an action to assure the restoration of the environment and the groundwater resources of the State.
50. Any person affected by this action of the Water Board may petition the State Board to review the action in accordance with Title 23 CCR Sections 2050-2068. The regulations may be provided upon request and are available at www.swrcb.ca.gov. The State Board must receive the petition within 30 days of the date of this Order.

REQUIRED ACTIONS

IT IS HEREBY ORDERED that pursuant to Water Code Section 13000, Section 13304, Health and Safety Code Section 25296.10 and Water Code Section 13267, Frank and Shari Guinta, and James and Marilyn Ramsey shall:

1. Investigate the discharges of waste, clean up the waste, and abate the effects of the waste, forthwith, resulting from activities from the former UST system at 2072 W. Yosemite Avenue in Manteca in conformance with State Board Resolution No. 92-49 *Policies and Procedures for Investigation and Cleanup and Abatement of Discharges Under Water Code Section 13304* and with the Water Board's *Water Quality Control*

Plan for the Sacramento River and San Joaquin River Basins (in particular the Policies and Plans listed within the Control Action Considerations portion of Chapter IV).

"Forthwith" means as soon as is reasonably possible. Compliance with this requirement shall include, but not be limited to, completing the tasks listed below.

2. All work and reports shall follow the *Appendix A - Reports, Tri-Regional Recommendations for Preliminary Investigation and Evaluation of Underground Storage Tank Sites* (Appendix A - Reports) which is attached and made a part of this Order, and under permits required by State, County, and/or Local agencies.

PUBLIC PARTICIPATION

3. By **16 January 2009**, submit a *Public Participation Plan*. The *Public Participation Plan* shall solicit the public's concerns and disseminate information to the public regarding the investigation and proposed cleanup activities at the sites. The *Public Participation Plan* shall be updated as necessary to reflect any significant changes in the degree of public interest as the site investigation and cleanup process moves toward completion.

SITE ASSESSMENT

4. By **16 January 2009**, submit a *Site Investigation Workplan (Workplan)* to complete vertical and lateral delineation of the groundwater plume. The *Workplan* must be implemented within 30 days of Regional Board staff approval.
5. Submit results of the site investigation in a *Site Investigation Report (SIR)* by **30 April 2009**. The *SIR* shall include recommendations and, if needed, a second Workplan for additional investigation. If additional investigation is necessary, the Workplan shall include a time schedule for completing the work and submitting the results.
6. Within **30 days** of staff concurrence with all Workplans for additional site assessment, implement the Workplan.
7. Upon defining the extent of wastes, but no later than **30 July 2009**, submit a *Problem Assessment Report (PAR)* which includes information from the implementation of the Workplan and sufficient detail on the nature and extent of the release to provide a basis for future decisions regarding subsequent cleanup and abatement actions.

FEASIBILITY STUDY

8. By **1 October 2009**, submit a Feasibility Study that provides a summary of remedial alternatives evaluated to address applicable cleanup levels for the affected or threatened human health and/or waters of the State. The Feasibility Study shall propose at least two remedial technologies that have a substantial likelihood to

achieve cleanup of all affected soils and groundwater and shall include a schedule for achieving cleanup. The remedial technologies must be evaluated with respect to their ability to be implemented, cost, and effectiveness. The Feasibility Study shall include the rationale for selecting the preferred remedial alternative. The Discharger shall attempt to clean up each constituent to background concentrations, or to the lowest level that is technically and economically achievable and which complies with all applicable WQOs of the Basin Plan and promulgated water quality criteria.

REMEDIATION

9. Within **90 days** of Water Board staff concurrence with the proposed remedial action described in the Feasibility Study but no later than **30 January 2010**, submit a Final Remedial Plan (FRP). The FRP must include a detailed description of the remedial actions to address cleanup of the entire groundwater plume and source area soils. The FRP shall also include a schedule to implement all remedial actions.
10. Within 60 days of Water Board staff's approval of the FRP but no later than **1 April 2010**, begin implementation of the approved remedial actions.
11. Submit for remediation system(s), **monthly** status reports for the first three months of operation of any new systems. At a minimum, the monthly status reports shall include:
 - site maps indicating the capture zone and waste plumes,
 - average extraction rates of all treatment systems,
 - influent and effluent concentrations of TPHg, benzene, toluene, ethylbenzene, xylenes, MtBE and other fuel oxygenates, 1,2 DCA, EDB, and Organic Lead,
 - mass of hydrocarbons treated during the reporting period and cumulative to date,
 - estimated mass of wastes remaining and predicted time frame for meeting cleanup objectives,
 - running and down time for the remediation system(s),
 - summary of consultant visits to the site, and
 - evaluation of the overall remediation program and recommendations to correct deficiencies or increase efficiency.
12. The Discharger shall ensure that any soil vapor or groundwater extraction system(s) "zone of capture" completely envelops and controls the entire plume(s) (lines of non-detect contamination as specified in the MRP No. R5-2007-XXXX, in all targeted zones). If sampling results in any two consecutive months (or quarters) demonstrate that any part of the waste plume(s) is not within the "zone of capture", the Discharger shall include with the second status report a proposal to mitigate the condition. The proposed actions shall be completed within 60 days of staff approval of the proposal.

GROUNDWATER MONITORING

13. Conduct monitoring of the existing wells and any additional wells in accordance with Monitoring and Reporting Program No. R5-2008-XXXX (MRP R5-2008-XXXX) or any revised MRP issued by the Executive Officer.
14. Submit **Quarterly Status Reports** by the 30th day of the first month after the calendar quarter in which the samples were collected. The first quarter report is due **30 April**, the second quarter report is due **30 July**, the third quarter report is due **30 October**, and the fourth quarter report is due **30 January**. Quarterly reports are to include the information specified in Appendix A – Reports.
15. Submit notification by letter of intent to conduct monitoring and to submit Quarterly Status Reports, on or before the first day of the first month of each quarter. Failure to do so will result in the State's contractor conducting the work.

REPLACEMENT WATER

16. Continue testing of affected domestic wells and maintenance (including any necessary replacement) of the existing domestic well treatment systems in order to provide uninterrupted replacement water to affected well users. The testing shall be as specified in MRP R5-2008-XXXX, and may include testing of nearby domestic and irrigation wells. The Discharger may discontinue such testing and maintenance for a well that no longer requires treatment, as determined by the Executive Officer.

GENERAL REQUIREMENTS

17. As required by the California Business and Professions Code Sections 6735, 7835, and 7835.1, have appropriate reports prepared by, or under the supervision of, a registered professional engineer or geologist and signed by the registered professional. All technical reports submitted by the Dischargers shall include a cover letter signed by the Dischargers, or an authorized representative, certifying under penalty of law that the signer has examined and is familiar with the report and that to their knowledge, the report is true, complete, and accurate. The Dischargers shall also state if they agree with any recommendations/proposals and whether they approved implementation of said proposals.
18. Upon startup of any remediation system(s), operate the remediation system(s) continuously, except for periodic and required maintenance or unpreventable equipment failure. The Dischargers shall notify the Water Board within 24 hours of any unscheduled shutdown of the remediation system(s) that lasts longer than 48 hours. This notification shall include the cause of the shutdown and the corrective action taken (or proposed to be taken) to restart the system. Any interruptions in the

operation of the remediation system(s), other than for maintenance, emergencies, or equipment failure, without prior approval from Water Board staff or without notifying the Water Board within the specified time is a violation of this Order. Within 7 working days of a shutdown, the Dischargers shall submit a Technical Report containing at a minimum, but not limited to the following information:

- times and dates equipment were not working,
- cause of shutdown,
- if not already restarted, a time schedule for restarting the equipment, and
- a Cleanup Assurance Plan to ensure that similar shutdowns do not reoccur. Proposed Cleanup Assurance Plans are to be completed within 30 days of the system shutdown.

19. Notify Water Board staff at least three working days prior to any onsite work, testing, or sampling that pertains to environmental remediation and investigation and is not routine monitoring, maintenance, or inspection.
20. Obtain all local and state permits and access agreements necessary to fulfill the requirements of this Order prior to beginning the work.
21. Continue any remediation or monitoring activities until such time as the Executive Officer determines that sufficient cleanup has been accomplished to fully comply with this Order and this Order has been either amended or rescinded in writing.
22. Optimize remedial systems as needed to improve system efficiency, operating time, and/or waste removal rates, and report on the effectiveness of the optimization in the quarterly reports.
23. Maintain a sufficient number of monitoring wells to completely define and encompass the waste plume(s). If groundwater monitoring indicates the waste in groundwater has migrated beyond laterally or vertically defined limits during the quarter, then the quarterly monitoring reports must include a work plan and schedule, with work to begin within 30 days of Water Board staff approval, to define the new plume limits.
24. Electronic copies of all reports and analytical results are to be submitted over the Internet to the State Water Board Geographic Environmental Information Management System database (GeoTracker) at <http://geotracker.swrcb.ca.gov>. Electronic submittals shall comply with GeoTracker standards and procedures as specified on the State Board's web site and shall be submitted by the due dates for the corresponding copies ordered elsewhere in this Order.
25. If the Discharger is unable to perform any activity or submit any document in compliance with the schedule set forth herein, or in compliance with any work schedule submitted pursuant to this Order and approved by the Executive Officer, the

Discharger may request, in writing, an extension of the time specified. The extension request shall include justification for the delay. Any extension request shall be submitted as soon as the situation is recognized and no later than the compliance date. An extension may be granted by revision of this Order or by a letter from the Executive Officer. Extension requests not approved in writing by the Executive Officer with reference to this Order are denied. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement. Currently all UST Cleanup Funds available to the Dischargers have been dispersed.

26. All work and directives referenced in this Order are required regardless of whether or not the UST Cleanup Fund approves the work for reimbursement. Currently all UST Cleanup Funds available to the Dischargers have been dispersed.
27. Additionally, a State contractor may be directed to complete any or all of the tasks not completed by the Dischargers by the deadlines required by this Order. The State Board may file liens to recover EAR costs (Health and Safety Code, § 25299.70.). If the Dischargers fail to comply with this CAO within the time frame listed above, then the Executive Officer may request the State to direct its EAR contractor to conduct the work.
28. The Dischargers are responsible for compliance with all "Required Actions" as set forth in this Order. Failure to achieve compliance with the "Required Actions" in this Order is the sole responsibility and liability of the Dischargers, whether the work is performed by the State's contractor, Dischargers, or representatives of the Dischargers.
29. If the Dischargers fail to comply with the provisions of this Order, the Executive Officer may refer this matter to the Attorney General for judicial enforcement and/or may issue a complaint for administrative civil liability.
30. CAO R5-2003-0173 is hereby rescinded, except for purposes of enforcement of violations that occurred prior to the date of this Order.

I, PAMELA C. CREEDON, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order adopted by the California Regional Water Quality Control Board, Central Valley Region, on ____ October 2008.

PAMELA C. CREEDON, Executive Officer